

The View

CALIFORNIA BOARD OF OPTOMETRY

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Sheilah S. Titus, O.D.
Vice President
Steven S. Grant, O.D.
Secretary
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Public Member
Jennifer H.W. Kao, O.D.
Jane R. Vogel, M.A.
Public Member

On June 1, 2000 Dr. Robert Dager's term appointment expired. Dr. Dager had served on the Board since February, 1994. We thank Dr. Dager for his outstanding service to the Board and to the people of the State of California.

BOARD GOES ONLINE @ www.optometry.ca.gov

In 1998 the Board unveiled its Internet Web site. The site provides useful information for both consumers and optometrists. Included are the Board's mission, values and beliefs; frequently asked questions about optometry; information about recent legislative and regulatory changes; a downloadable version of California laws governing the practice of optometry; downloadable Board applications and forms; and recent disciplinary actions by the Board. Web site visitors can also access a user-friendly database containing licensing and enforcement information on all California optometrists.

New Board Officers Elected

At the December 2000 meeting the Board elected new officers for 2001.

Dr. Gerald Easton was re-elected as President. Dr. Easton was originally appointed to the Board in August, 1994 and is a practicing optometrist in Coronado. From 1985-86, Dr. Easton served as President of the American Optometric Association. In 1974 he served as the California Optometric Association President. Dr. Easton has served on the Coronado School and Hospital Boards for two years. A graduate of Los Angeles College of Optometry (now SCCO), Dr. Easton has been licensed in California since 1954.

The Board re-elected Dr. Sheilah Titus as Vice President. Dr. Titus was originally appointed to the Board in August, 1994 and is a practicing optometrist in El Dorado Hills. She is a graduate of the Southern California College of Optometry and has been licensed in California since 1983.

The Secretary of the Board, Dr. Steven Grant was originally appointed to the Board in June of 1994 and is a practicing optometrist in Costa Mesa.

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Regulations



In response to consumer concerns regarding the board's visibility to the general public, the Board adopted Section 1566.1 of Title 16 of the California Code of Regulations. This adoption requires inclusion of the Board's address and telephone number in the "Notice to Consumers" currently posted by all optometrists. A copy of the new required notice is included in this newsletter. Licensed optometrists must replace the existing notice with the new one provided.

The Board adopted Sections 1576-1581, which establishes a system for the issuance of citations and fines for violations of the laws and regulations governing the practice of optometry. Previously, the Board had authorization to issue citations and fines under Business and Professions Code Section 3135. That section was repealed by the legislature at the Board's request. Now the Board exercises its authority under Section 129.5. This establishes by regulation, procedures covering a broader range of violations. The Board may now issue citations and fines as follows:

The Board may issue a citation and fine of no less than \$50 and no more than \$500 for violations of the following sections:

B&P	CCR	Summary Description
3070	1505	Failure to Notify of Address
3075	1506	Display of Certificate
3076		Temporary Practice
3098		Misuse of Title or Letters
3100		Employment of Cappers/ Steerers
3125	1513	False/Assumed Name
	1518	
	1546	
3162	1549	Corp Reports/Renewals
	1565	Prescription Standards
	1566	Notice to Consumers

The Board may issue a citation and fine of no less than \$501 and no more than \$1000 for violations of the following sections:

B&P	CCR	Summary Description
3077	1507	Branch Offices
	1550	
3129		Advertising Services Without Cost
3165	1548	Shares Transfer & Ownership

The Board may issue a citation and fine of no less than \$1001 and no more than \$2500 for violations of the following sections:

B&P	CCR	Summary Description
650		Fee for Referral
651	1512	False/Misleading Advertising
655		Prohibited Relationships
3090		Unprofessional Conduct
3096		Solicitation
3102		Employment of Suspended/ Unlicensed Optometrist
3103	1514	Accepting Unlawful Employment
3104	1515	Improper Advertising
3127		Practice Without Certificate
3128		Holding Self Out as an Optometrist Without Valid Certificate

Recent Regulations Changes

Effective April 25, 2001, Repeal Section 1533.1. Eliminates the board's license examination appeal process.

Effective April 06, 2001, Repeal Section 1560. Removes the limitations on the drug categories for diagnostic drugs and allow the use of all topical diagnostic pharmaceutical agents identified in Business and Professions Code Section 3041 (a)(5) for the purpose of examining the human eye or eyes. Section 3041(a) (5) of the Business and Professions Code superseded Section 1560.

Effective April 25, 2001, Amend Section 1575. Incorporates the current version of the board's Disciplinary Guidelines and Model Disciplinary Orders, DG-3, 5-99, which were amended by the Board effective May 1999 thereby bringing the Board into compliance with Chapter 938, Statutes of 1995.

The Board is considering future regulation proposals which would permit optometrists to fulfill part of their continuing education requirements with courses offered over the internet; update continuing education requirements to conform with the board's biennial renewal cycle; update the definitions and provisions constituting professional inefficiency; and incorporate current ophthalmic device standards of the American National Standards Institute.

Legislation

SB 929, signed by Governor Davis in September 2000, expanded the scope of practice for TPA Certified California optometrists. The new law does the following:

1) Revises the definition of the practice of optometry to include prevention and diagnosis of disorders and dysfunctions of the visual system, treatment and management of certain disorders and dysfunctions of the visual system, the provision of rehabilitative optometric services.

2) Revises and expands the list of conditions that an optometrist who is certified to use therapeutic pharmaceutical agents (TPA) is permitted to diagnose and exclusively treat, to include the following:

a) Medical treatment of infections of the anterior segment and adnexa, excluding the lacrimal gland, the lacrimal drainage system and the sclera. Specifies that this does not authorize any optometrist to treat a person with acquired immunodeficiency syndrome for ocular infections;

b) Ocular allergies of the anterior segment and adnexa;

c) Ocular inflammation, nonsurgical in cause, limited to inflammation resulting from traumatic iritis, peripheral corneal inflammatory keratitis, episcleritis, and unilateral nonrecurrent nongranulomatous idiopathic iritis in patients over the age of 18. Requires unilateral nongranulomatous idiopathic iritis recurring within one year of the initial occurrence to be referred to an ophthalmologist, and requires optometrists to consult with an ophthalmologist with recurrent cases of episcleritis and keratitis;

d) Ocular pain, not related to surgery, associated with conditions optometrists are authorized to treat; and

e) Primary open angle glaucoma in patients over the age of 18, if the optometrist is certified for this treatment, as provided for in this bill.

f) Corneal surface disease and dry eyes.

3) Revises and expands the list of therapeutic pharmaceutical agents that TPA-certified optometrists may use in diagnosing and treating conditions, by permitting the following medications:

a) Topical steroid antiallergy agents, subject to requirements specifying when the optometrist is required to consult with, or refer patients to, an ophthalmologist;

b) Topical steroid anti-inflammatories, subject to disease-specific requirements as to when the optometrist is required to consult with, or refer patients to, an ophthalmologist;

c) Topical antiglaucoma agents, if the optometrist is certified to treat primary open angle glaucoma, as provided for in this bill, and subject to specified requirements;

d) Nonprescription medication used for the rational treatment of an ocular disorder;

e) Oral antihistamines, subject to requirements relating to referral to an ophthalmologist;

f) Prescription oral nonsteroidal anti-inflammatory agents, limited to three days use;

g) Specified oral antibiotics for medical treatment of infections of the anterior segment and adnexa, subject to disease-specific requirements as to when the optometrist is required to consult with, or refer patients to, an ophthalmologist;

h) Topical antiviral medical and oral acyclovir for the treatment of specified conditions, and subject to ophthalmologist consultation and referral requirements;

i) Oral analgesics that are not controlled substances; and

j) Codeine with compounds and hydrocodone with compounds listed in the California Uniform Controlled Substances Act, limited to three days use, with a referral to an ophthalmologist if the pain persists.

4) Requires, when optometrists are required to consult with an ophthalmologist, that the optometrist maintain a written record in the patient's file of the information provided to the ophthalmologist, and the ophthalmologist's response, and requires the optometrist to furnish a copy of the record to the consulting ophthalmologist upon request.

5) Permits TPA-certified optometrists to order a complete blood count, mycobacterial culture, acid fast stain, and urinalysis, to perform punctal occlusion by plugs, excluding any means constituting surgery, as defined.

6) Expands the ability of optometrists to remove foreign bodies from the cornea, provided the corneal foreign bodies are nonperforating, no deeper than the anterior stroma, and require no surgical repair upon removal.

7) Requires the Board of Optometry to certify optometrists to perform lacrimal irrigation and dilation of patients over the age of 12, excluding probing of the nasal lacrimal tract, after the optometrist has completed 10 of these procedures under the supervision of an ophthalmologist.

8) Prohibits injections other than the use of an auto-injector to counter anaphylaxis.

9) Requires the Board to certify those optometrists who are already TPA-certified, to treat primary open angle glaucoma in patients over the age of 18, if the optometrist meets the following requirements:

SB 929 (Cont.)

a) Satisfactory completion of a didactic course of at least 24 hours in the diagnosis, pharmacological and other treatment and management of glaucoma, with the curriculum developed by an accredited California school of optometry. Exempts applicants who graduated from an accredited California school of optometry on or after May 1, 2000; and

b) After completion of the above didactic course, collaborative treatment of 50 glaucoma patients for a period of two years for each patient, under specified terms describing the collaborative requirements between the optometrist and the ophthalmologist.

13) Requires that 35 hours of the currently required continuing education for TPA- certified optometrists be on the diagnosis, treatment and management of ocular disease and allocated as follows: 12 hours on glaucoma, 10 hours on ocular infections, 5 hours on inflammation and topical steroids, 6 hours on systemic medications, and 2 hours on the use of pain medications.

14) Includes optometrists in the list of providers able to prescribe controlled substances in the California Uniform Controlled Substances Act, when acting within the scope of specified provisions of law.

15) Expands the scope of practice of assistants working in the office of an optometrist or ophthalmologist by permitting an assistant, under the direct supervision of an optometrist or ophthalmologist, to perform certain tests and procedures, as specified.

16) States it is the intent of the Legislature that the law governing the scope of practice of optometry shall not be amended prior to January 1, 2009, and that no legislation to this effect be introduced prior to January 1, 2008. States the Legislature's intent; however, that parties who are interested in the scope of practice of optometrists commence negotiations on any proposed changes to the law governing this practice no later than January 1, 2007.

For current information and applications related to the new law, please visit the board's web site at www.optometry.ca.gov.

The following bills were signed by the Governor last fall and became effective 1/01/01:

AB 1792 (Villaraigosa) Makes changes in the application process for disabled placards, increases the penalty for misuse of a placard, and requires the DMV conduct an audit of placard applications. The new law also requires the physician or other person, including optometrists, maintain information sufficient to substantiate the certificate and, upon request of the DMV, make that information available for inspection by the Medical Board of California.

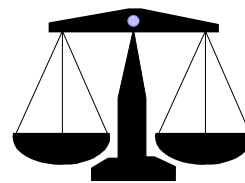
AB 2185 (Gallegos) Requires the Department of Health Services establish the Newborn Eye Pathology Screening Program, including the creation of an advisory task force and the adoption of a protocol for detecting the presence of treatable causes of blindness in infants by two months of age.

Last fall the Board sent a questionnaire to all Non-DPA certified California optometrists requesting their input on a proposal to eliminate the non-DPA category of licensure. The questionnaire was sent to 498 licensees and the Board received responses from 66% of those surveyed. After consideration of the responses and additional information, the Board decided to take no action at this time to eliminate the non-DPA category of license.

In the coming year the Board of Optometry will once again undergo sunset review before the legislature. As stated on its website:

The primary goal of the Joint Legislative Sunset Review Committee is to systematically examine and evaluate all consumer boards and specified programs under the Department of Consumer Affairs, and assure they are carrying out their primary mission: *"To protect the public against incompetent, negligent, fraudulent, deceptive, or other unscrupulous or illegal acts of licensed professionals or unlicensed persons posing as professionals, and provide for improved and effective service to the consumer and licensees."*

Board Enforcement Actions



Notice of Citation and Assessment of Administrative Fines

Effective September, 1999 the California State Board of Optometry received authority to issue citations and fines.

The Board issued seven Notices of Citation and Assessment of Administrative Fines. The first Notice of Citation and Assessment of Administrative Fine was issued on September 28, 1999.

The administrative fines assessed are for various violations of the Business and Professions Codes and the California Code of Regulations.

Since January 1, 2000, the following citations became final:

Kenneth Masanori Fujimoto, O.D. - OPT 9407. Case number CC 1999 63. Dr. Fujimoto was issued a citation, assessing administrative fines of \$1,752 for failure to notify the Board of Optometry of the address where he engaged or intends to engage, in the practice of optometry and the use of an unauthorized fictitious name which are violations of Sections 3070 and 3125 of the Business and Professions Code. Assessed fines were paid in full on June 8, 2000.

Bruce John Spera, O.D. - OPT 6357. Case Number CC 1999 134. Dr. Spera was issued a citation assessing administrative fines of \$1,201 for failure to notify the Board of Optometry of address where he engaged or intends to engage, in the practice of optometry. This is in violation of sections 3070 and 3075 of the Business and Professions Code and 1505 and 1506 of the California Code of Regulations. Assessed fines were paid in full on March 6, 2000.

Alan Edward Limfat, O.D. - OPT 9620. Case Number CC 1999 192. Dr. Limfat was issued a citation assessing administrative fines of \$5,055 for advertising violations, not having a registered name listed in the advertisement. This is a violation of Sections 651(a), 651(b) (1), 651(b)(5) and 651(e) of the Business and Professions Code and 1513 of the California Code of Regulations. Assessed fines were paid in full on May 19, 2000.

License Discipline

Since January 1, 2000, the Board took disciplinary action against the following licensees. Although every effort is made to ensure this information is correct, before making a decision, you should contact the Board office to assure accuracy and to request any additional information.

Stephanie Nishamura Baba, O.D.

Effective February 11, 2001, Dr. Baba's Certificate of registration No. 6525 was revoked for unprofessional conduct, use of cappers and steerers, and obtaining fees by fraud and misrepresentation. However, revocation was stayed and she was placed on probation for 3 years with various terms and conditions.

John Christopher Kotulak, O.D.

Effective May 7, 2000, Dr. Kotulak's Certificate of Registration No. 6722 was revoked for convictions of Penal Code Sections 289(h) and 647.6(a), crimes substantially related to the qualifications, functions and duties of an optometrist and unprofessional conduct. However, revocation was stayed, Dr. Kotulak's Certificate of Registration was suspended for 30 days and he was placed on probation for 7 years with various terms and conditions.

Damon M. Lanier, O.D.

Effective October 12, 2000, Dr. Lanier's Certificate of Registration No. 3532 was publicly reprimanded for unprofessional conduct and professional inefficiency.

License Discipline Continued

John Loc Le, O.D.

Effective July 5, 2000, Dr. Le's Certificate of Registration No. 10115 was revoked for unprofessional conduct, operating an unlicensed branch office, willfully giving false information on an application to the Board, practicing under a false or assumed name, not identifying himself in signs, cards, stationery or other advertising, and not including the required minimal information on prescriptions or orders. However, revocation was stayed, he was placed on probation for 3 years with various terms and conditions.

Thuy L.T. Pham, O.D.

Effective January 25, 2000, Dr. Pham's Certificate of Registration No. 10157 was revoked for unprofessional conduct and failure to refer a patient when examination indicated a substantial likelihood of pathology. However, revocation was stayed and she was placed on probation for 3 years with various terms and conditions.

Kevin Michael Riggs, O.D.

Effective May 7, 2000, Dr. Riggs' Certificate of Registration No. 8012 was revoked for unprofessional conduct, obtaining fees by fraud or misrepresentation, knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts, and aiding and abetting the unlicensed practice of optometry. However, revocation was stayed and he was placed on probation for 3 years with various terms and conditions.

Peggy Sampson, O.D.

Effective January 11, 2001, Dr. Sampson's Certificate of Registration No. 8328 was placed on probation for 2 years with various terms and conditions for unprofessional conduct.

Lincoln Andrus Service, O.D.

Effective January 11, 2001, Dr. Service's Certificate of Registration No. 7573 was revoked, and his application for branch office license denied, for unprofessional conduct and submitting false information to the Board in an application for a branch office license. However, revocation was stayed and he was placed on probation for 3 years with various terms and conditions.

Herbert Michael Shack, O.D.

Effective November 25, 2000, Dr. Shack's Certificate of Registration No. 5459 was revoked for unprofessional conduct, and not being in personal attendance in his branch office 50 percent of the time that it had been open for the practice of optometry. However, revocation was stayed. He was suspended from the practice of optometry for 30 days, Branch Office License No 1914 and Fictitious Name Permit No. 2578 were revoked. He was placed on probation for 3 years with various terms and conditions.

Donald Zvanut, O.D.

Effective January 11, 2001, Dr. Zvanut's Certificate of Registration No. 8642 was revoked for unprofessional conduct, gross ignorance, professional inefficiency, knowingly making or signing a certificate or document that falsely represented the existence or nonexistence of a state of facts, and altering or modifying the medical record, or creating a false medical record with fraudulent intent. However, revocation was stayed and he was placed on probation for 5 years with various terms and conditions.

Surrender of License

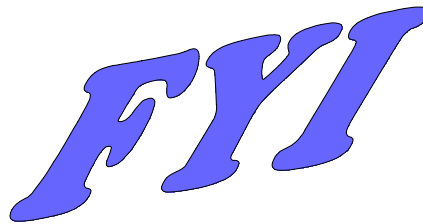
Aristides Carcamo, O.D.

Effective May 7, 2000, Dr. Carcamo's Certificate of Registration No. 8144 was surrendered pursuant to a stipulated settlement of charges that Dr. Carcamo had violated previously imposed terms of probation.

For a copy of the Laws and Regulations Governing the Practice of Optometry, please send a written request along with \$10.00 to :

California State Board of Optometry
400 R Street, Suite 4090
Sacramento, CA 95814

or you may download a copy from the
board's web site:
www.optometry.ca.gov



Overview of Board Activities

If you've ever wondered what goes on at the Board office, the following overview of the past fiscal year might interest you.

License Applications Received	355
Licenses Issued	233
Licenses Renewed	3,116
Permit Applications Received	1,301
Permits Issued	1,257
Permits Renewed	1,407
CE Audits Conducted	1,010
Complaints Received	273
Complaints Closed	254
Warning Letters Issued	111
Investigations Opened	79
Investigations Closed	61
Accusations Filed	10
Discipline Imposed	6

Congratulations to Mrs. Jane Vogel!

Board Member, Jane Vogel was honored by KCET, public television for Southern and Central California as a winner of the ***Her Story is Our Story: Celebrating the Women of Our Community*** awards in commemoration of the Women's History Month in March 2001.



We've Moved Have You?

Last fall the Board office relocated. Our new address is: 400 R St., Suite 4090 Sacramento, CA 95814. If you are moving you must notify the Board in writing of your new address. Forms and applications for Board notification can be obtained at the board's website.

Optometry Board meetings are open to the public.

All Optometry Board meetings are open to the public. The Board holds four regularly scheduled meetings each year. The meetings are held in the Sacramento, Los Angeles, San Francisco and San Diego areas. Notice of meeting dates and locations are posted on the board's web site.

The American Optometric Association has added significant eye care information listed under "Consumer Guides" to its web site:

www.aoanet.org



California is facing a major energy challenge.

We can all help reduce consumption and improve energy efficiency. While California continues to experience electrical shortages and rolling blackouts, Governor Davis and leaders of the California Legislature are working with utilities, energy generators, and consumer groups to forge a long-term solution to this problem. In the short run, California's consumers and businesses can work to reduce electricity usage and use energy more efficiently.

In the Board of Optometry, and in all State of California agencies, we've implemented a plan to reduce consumption by a minimum of 8 percent. During critical power shortages, State agencies will conserve 20 percent. The Governor also has asked all Californians to reduce their electricity use by at least 8 percent.

California has the power of nearly 35 million people and the sixth largest economy in the world. By implementing a few simple energy-saving measures, we can avoid shortages, lower energy bills, and have a **major impact** on the availability of power.

We're asking you to *flex your power*. Each of us has an important role to play **right now**.

- Reduce usage during peak demand hours—5 a.m. to 9 a.m. and 4 p.m. to 7 p.m.
- Close curtains to keep the heat out.
- Set the thermostat to 78 degrees on warm days (85 degrees when nobody is home).

- Seal off unused or storage areas from cooling.
- Turn off all non-essential lights and equipment. When you're not using it, turn it off. Unplug equipment not in regular use, such as VCRs and phone chargers. Putting computers in "sleep" mode can save up to 40 percent in energy consumption.
- Buy Energy Star® appliances, products, and lights, which are more energy efficient than older models.

Kids also can save energy through their schools by turning off lights, computers, and other electrical equipment during recess and after school. Tell your kids: "Save a little, save a watt."

Taken together, each of these small steps add up. Whether at work or at home, we can make a **dramatic difference** in the energy crunch.

